

**AN ORDINANCE TO AMEND CHAPTER 113 OF THE CODE OF THE
CITY OF JOHNS CREEK, GEORGIA (DEVELOPMENT REGULATIONS)
TO AMEND PROVISIONS REGARDING THE ISSUANCE OF SURETY
BONDS AND FOR OTHER PURPOSES**

WHEREAS, the Mayor and City Council of the City of Johns Creek find that from time to time it is necessary to amend sections of the Code of the City of Johns Creek, Georgia to correct, clarify, and update the provisions provided therein; and

WHEREAS, the Mayor and City Council desire to amend the provision on Surety Agreements; and

WHEREAS, regulations and policies pertaining to land development are outlined in the Code of the City of Johns Creek; and

WHEREAS, the Mayor and City Council desire to clarify and streamline provisions relating to the issuance of Surety Bonds;

NOW, THEREFORE, the Council of the City of Johns Creek hereby ordains that Chapter 113 of the Code of the City of Johns Creek, Georgia, Development Regulations, is amended as follows:

Section 1: Chapter 113 (Development Regulations), Article VII. (Procedures), Sec. 113-71 Review Procedures of the Code of the City of Johns Creek is hereby revised to read as follows:

ARTICLE VII. PROCEDURES

Sec. 113-71. Review procedures.

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(1) *General requirements.*

- a. The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments of the director.
- b. All final plats, replats and minor plats shall have the consent of the owners of all affected lots shown on said plat. Replats or new plats showing modifications to common areas shall require the consent of owners of all lots shown in the original final plat.

- c. Proposals for the subdivision, combination, or recombination of lawful previously platted lots or parcels, or portions thereof, shall be in compliance with the city zoning ordinance, as amended and/or approved conditions of zoning.
- d. Where a proposed development fronts an existing public street, the developer shall improve the street along the lot's frontage to the applicable standards of these regulations and any standard details as determined by the director of public works.
- e. All water and sewer easements shall be dedicated to the utility provider.
- f. Each proposed lot shall comply with the requirements of the county health and wellness department, whose certification of approval shall accompany the submission of the final plat.

(2) *Initial submittal and review.*

- a. All applications shall be complete before acceptance for review and decision-making. A determination of completeness is a determination that all required documents and plans have been submitted in sufficient number and details to determine compliance with the applicable city regulations, and that all fees have been paid. A determination of completeness is not a determination of compliance with substantive standards and criteria.
- b. If the director determines that the application is complete, the application shall be processed for review and action in accordance with the established review period.

(3) *Pre-application conference.* Whenever any development land is proposed, whether for subdivision, non-subdivision, residential or nonresidential development, the applicant is encouraged to present to the department preliminary documents and graphic exhibits to permit early evaluation of the owner's intentions and coordination with the zoning ordinance, Metropolitan River Protection Act, stormwater management ordinance, and other applicable regulations.

(4) *Minor plat approval (three lots or less) or recombination plat.*

- a. *Applicability.* A subdivision/recombination of land may be reviewed under the provisions of a minor plat when all of the following are true:
 - 1. The subdivision contains lots or less;
 - 2. There is a recombination of two or more lots;
 - 3. The subdivision does not require the extension of utilities or other municipal facilities; and
 - 4. No new streets or roads are required.
- b. *Application.* Application for minor plat approval shall be submitted to the community development department using an application form and in a number of copies to be determined by the director.
- c. *Determination of completeness.* The director shall make a determination of completeness as set forth in subsection (3) of this section. When an application for development plan has been determined to be complete, the application and all accompanying information shall be distributed to all required reviewers.

- d. *Plan requirements.* The minor plat shall be in compliance with the requirements for minor plats found in [section 113-113].
- e. *Compliance with codes and regulations.*
 - 1. A minor plat may be exempt from the standard plat review process; however, a minor plat is not exempt from the design and construction standards contained in these regulations and other city codes and ordinances. Upon submittal of the minor plat application the director shall determine what, if any, additional reports, construction drawings or information may be required to ensure compliance with all applicable regulations.
 - 2. The sub-divider shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments provided by the city.
- f. *Review comments.* The city shall indicate on a review copy of the drawings or in a written memorandum all comments related to compliance of the development plans with these regulations, principles of good design, the zoning ordinance, conditions of zoning approval, and the regulations of other city departments as appropriate. The director shall have final staff authority to determine the applicability of any and all comments under these development regulations, with the exception of articles XI and XII of this chapter, which shall be at the discretion of the public works director, the zoning ordinance or conditions of zoning approval.
- g. *Minor plat approval.* Final approval by the director shall not be shown on the plat until all requirements of these, and other applicable city regulations have been met.

Once the department has approved the minor plat the director shall certify by his/her signature on the original of the plat. The plat shall not be deemed approved until it has been signed by the director and by a duly authorized representative of the health department.

- h. *Recording of the minor plat.* Once the minor plat has been so certified, the plat will be considered approved and the director shall authorize it to be recorded with the clerk of the superior court. The sub-divider shall provide the department with an appropriate number of copies of the recorded plat, as determined by the director. Deeds to lands dedicated to the city in fee simple shall be recorded simultaneously with the plat.
 - i. *Amendments to a minor plat.* Each lot created under the provisions of a minor plat shall not subsequently be re-subdivided pursuant to the provisions of a minor plat. Such re-subdivision shall be accomplished only through the procedures contained herein for a plat that does not meet the requirements of a minor plat.
- (5) *Development plan approval for all applications.*
- a. *Land disturbance permit required.* No developer shall proceed with any land disturbing activity, including clearing, grading or grubbing, before obtaining a land disturbance permit from the city.

- b. *Application requirements.* An application for development plan approval and issuance of a land disturbance permit shall be submitted to the community development department using an application form and in a number of copies as determined by the director. The application shall include the construction drawings and other related engineering data as required in article X of this chapter and all application fees. For subdivisions the plans shall also include the preliminary plat, when required by these regulations. All construction drawings and other engineering data shall be prepared and signed and sealed by a professional engineer currently registered in the State of Georgia, in accordance with provisions of Georgia Law. Portions of the plans may be prepared and signed and sealed by other registered design professionals as provided for in Georgia Law.
- c. *Determination of completeness.* The director shall make a determination of completeness as set forth in subsection (3) of this section. When an application for development plan has been determined to be complete, the application and all accompanying information shall be distributed to all required reviewers.
- d. *Review comments.* The city shall indicate on a review copy of the drawings or in a written memorandum all comments related to compliance of the development plans with these regulations, principles of good design, the zoning ordinance, conditions of zoning approval, and the regulations of other city departments as appropriate. The director shall have final staff authority to determine the applicability of any and all comments under these development regulations (with the exception of articles XI and XII which shall be at the discretion of the public works director), the zoning ordinance or conditions of zoning approval.
- e. *Compliance with codes, ordinances and regulations.* The developer shall be responsible for compliance with all codes, ordinances, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments provided by the city.
- f. *Deeds of dedication.* Deeds to lands dedicated to the city in fee simple, shall be submitted to the director for recording prior to the issuance of a land disturbance permit. When the project involves the subdivision of land the deeds may be submitted prior to approval of the final plat.
- g. *Appeals.* Should an applicant disagree with the findings or final review comments of the city, concluding that factual or interpretive errors have been made, the applicant may appeal the decision in accordance with subsection 113-22(1) of these regulations.
- h. *Plan approval.* When the director has determined that the development plans are in compliance with all applicable city regulations and zoning requirements and approval has been received from all affected city departments, he/she shall sign and date the development plans to indicate the plans compliance. A development plan may be approved with conditions which may be noted on the approved plans or the permit. Copies of the approved development plans shall be provided to the applicant and at least two copies shall be retained by the department for its records. The applicant will be required to submit the approved plans and any accessory documents in an electronic format acceptable to the city.

- i. *Permit issuance.* Following the above approval by all affected city departments, a land disturbance permit may be issued at the developer's request to begin construction activities based on the approved development plans.

(6) *Final plat approval.*

- a. *Application.* When the provisions of these regulations have been complied with, the sub-divider may submit to the department an application for final plat approval, using an application form and in a number of copies as determined by the director. The final plat shall comply with the requirements for final plat submittal in article X of this chapter.
- b. *Review comments.* The director shall indicate on a review copy of the plat or in a written memorandum all comments related to compliance of the final plat with these regulations, the zoning ordinance, conditions of zoning approval, and the regulations of other city departments. The director shall have final staff authority to determine the applicability of any and all comments under these development regulations, the zoning ordinance or conditions of zoning approval, with the exception of articles XI and XII which shall be under the authority of the public works director.
- c. *Unbuildable lots.* The director may not approve any final plat whereon is shown or by which is otherwise created a lot which would present particularly severe and unusual difficulties for construction of a building, which would clearly require a variance to be reasonably usable, or which is otherwise "unbuildable" due to the presence of floodplain, unusual configuration, lack of county health and wellness department approval, or for any other justified reason.
- d. *Lots which require additional information.* Lots which would appear to be buildable under certain circumstances and would require further study or additional information before a building permit could be issued, but which present problems or unusual difficulties which can reasonably be addressed or overcome by the lot owner, may be included in the plat with the appropriate notation of the steps necessary to allow issuance of a building permit.
- e. *Compliance with codes, ordinances and regulations.* The sub-divider shall be responsible for compliance with all codes, ordinances, regulations, and zoning requirements and for the satisfaction of all of the comments of the director.
- f. *Final plat approval.* Final approval by the director shall not be shown on the final plat until all requirements of these, and other applicable city regulations have been met, all improvements required under the land disturbance permit have been substantially completed and approved by the city, approved water and sewer as-built from the utility provider have been submitted, and the final plat requirements provided for in article X have been completed. A project may be deemed substantially complete following the installation of the stormwater management facilities, water and sanitary sewer service, curb and gutter, base and binder installation or other items as may be required by the director.

Once the department has approved the final plat the director shall certify by his/her signature on the original of the plat. The final plat shall not be deemed approved until it has been signed by the director and by a duly authorized representative of the health department. The applicant will be required to submit

the approved plans and any accessory documents in an electronic format acceptable to the city

- g. *Recording of the final plat.* Once the final plat has been so certified, the final plat will be considered approved and the director shall authorize it to be recorded with the clerk of the county superior court. The sub-divider shall provide the department with an appropriate number of copies of the recorded plat, as determined by the director. Deeds to lands dedicated to the city in fee simple or to property owner associations for park or recreational use, home owner association articles of incorporations, by-laws, and covenants, and any applicable stormwater facilities maintenance agreements shall be recorded simultaneously with the final plat.
- h. *Ratification by mayor and city council.* Periodically the director shall submit a listing of approved final plats to the city council for ratification of acceptance of all dedications.

(7) *Performance surety agreements.*

- a. Performance surety agreements are required for all public and private rights of way and public and private infrastructure improvements to be constructed. Performance surety agreements are required prior to issuance of the development permit and/or final approval of the development for those improvements not yet completed. All right-of-way improvements including new streets, sidewalks, landscaping, etc. must be installed on all development types prior to the approval of a final plat, certificate of occupancy, or certificate of completion. A performance surety agreement meeting the following requirements shall be filed by the applicant:
 - 1. Be conditioned upon the faithful performance by the sub-divider or developer of all work required to complete all improvements and installations for the development, or approved portion thereof, in compliance with these rules and regulations within a specified time;
 - 2. Be payable to, and for the indemnification of, the city; and,
 - 3. Be in an amount of 100 percent of the cost of construction of the required improvements not yet completed, as calculated by the director on the basis of yearly contract prices or city contracts, where available. When contract prices are not available the director may use cost estimates from any source deemed reasonable by the director to approximate the cost of the proposed work;
 - 4. Where a surety agreement is acceptable it shall be issued by a company entered and licensed to do business in the State of Georgia;
 - 5. Be in a form acceptable to the director or the city attorney and its security ("surety funds") may be submitted in the following formats:
 - i. Cash, to be deposited in an escrow account;
 - ii. Cashier's check or money order;
 - iii. Irrevocable letter of credit from a bank or other financial institution in a form approved by the city; or

iv. Bond, in a format provided by the city.

- b. If the applicant fails to complete the work as stated in the surety agreement within the stated timeframe or in compliance with the city's design and construction requirements the city may call the surety agreement and funds and use the proceeds to complete the work.
- c. Additional surety agreement funds may be required for work that is to be completed within the right-of-way, city easement or other city property under a right-of-way/utility permit.

(8) *Maintenance surety agreements.*

- a. Maintenance surety agreements are required for all public and private rights of way and public and private infrastructure improvements. Maintenance surety agreements are required prior to issuance of the final plat and/or final approval of the development for those improvements completed. When required, a maintenance surety agreement shall be filed by the sub-divider or developer to ensure the viability of the infrastructure improvements. The maintenance surety agreement shall be valid for a period specified by the director and shall comply with the following requirements:
 - 1. Be payable to, and for the indemnification of, the city; and
 - 2. Be in an amount of 25 percent of the completed work as calculated by the director on the basis of yearly contract prices or city contracts, where available. When contract prices are not available the director may use cost estimates from any source deemed reasonable by the director to approximate the cost of the work;
 - 3. Where a surety agreement is acceptable it shall be issued by a company entered and licensed to do business in the State of Georgia with an A-6 or better bond rating; and
 - 4. Be in a form acceptable to the director or the city attorney and its security ("surety funds") may be submitted in the following formats: and
 - i. Cash, to be deposited in an escrow account;
 - ii. Cashier's check or money order;
 - iii. Bond, in a format provided by the city; or
 - iv. Irrevocable letter of credit from a bank or other financial institution in a form approved by the city.
 - 5. When certain infrastructure improvements covered by the maintenance surety agreement are also covered by a performance surety agreement, the period of the maintenance surety agreement shall be for a period that extends longer than the period covered by the performance surety agreement, but no greater than 18 months after the completion and acceptance of the work performed.
- b. Repairs shall be made by the contractor or developer for any deficiencies identified within the bonding period or the city may call the surety agreements and funds and use the proceeds to complete the repairs.

- c. Additional surety agreement funds may be required for work that is completed within the right-of-way, city easement or other city property under a right-of-way/utility permit.

SO ORDAINED AND EFFECTIVE, this 25th day of April, 2016.

Approved:



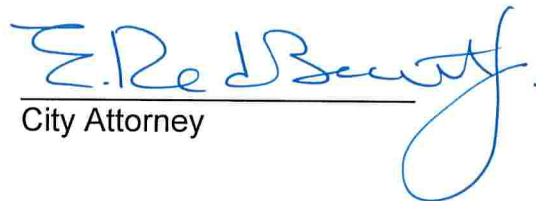
Michael Bodker, Mayor

Attest:



Joan Jones, City Clerk

Approved as to Form and Content:



City Attorney

